IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09/09/2004

CORAM:

THE HONOURABLE MR.JUSTICE P.D.DINAKARAN
AND
THE HONOURABLE MR.JUSTICE K.RAVIRAJA PANDIAN

W.P.No.41060 of 2002

M/s.J.D.P.Associates
rep. by Mr.P.Dharamchand
Partner, 238, R.K.Mutt Road
Chennai 600004 .. Petitioner

-Vs-

1. The Tamil Nadu Taxation Special Tribunal
Rajaji Salai
Chennai 600 001

2. The Sales Tax Appellate Tribunal
(Main Bench), New City Civil Court
Buildings, Chennai 600 104.

3. The Commercial Tax Officer
Alwarpet Assessment Circle
46, Greenways Road
Chennai 600 028 .. Respondents

PRAYER: Petition under Article 226 of the Constitution of India for issue of a writ of Certiorari as stated therein.

For Petitioner : Mr.V.Srikanth

For Respondents: Mr.T.Ayyasamy,
Special Govt. Pleader (T)
for respondents 2 and 3

:ORDER

(The order of this Court was delivered by
P.D.DINAKARAN,J.)

The exemption claimed by the petitioner under Section 3(B)(2)(a) of the Tamil Nadu General Sales Tax Act (hereinafter referred to as " the Act")

from the levy of sales-tax with respect to the transaction representing the inter-state works contract was rejected by the second respondent by order dated 6.1.2000 and the same was confirmed by the first respondent/Tribunal, by the impugned order dated 27.2.2001, incidentally, imposing penalty under Section 12(3)(b) of the Act. Hence the above writ petition for issue of a writ of Certiorari to call for the records on the files of the first respondent in T.C.No.79 of 20 01, dated 27.2.2001 and to quash the same as being invalid and illegal.

2. Concededly, the works contract was completed in the State of Tamil Nadu and the transaction does not represent inter-state works contract. Even though the petitioner alleged that they purchased the goods outside the State of Tamil Nadu, it is not in dispute that the same has been utilised in the State of Tamil Nadu, which attracts a deemed sale and therefore, in our considered opinion, the claim of exemption sought for by the petitioner under Section 3(B)(2)(a) of the Act was rightly rejected by respondents 1 and 2.

3. Once the return submitted by the petitioner was made incorrectly, we do not find any illegality in imposing penalty under Section 12(3)(b) of the Act. The question of mens rea does not arise in such case as it is a statutory liability. Hence, the contention advanced on behalf of the petitioner challenging the impugned order fails. This writ petition is dismissed. No costs.

Index :Yes
Internet:Yes

sasi

To:

1. The Tamil Nadu Taxation Special Tribunal
Rajaji Salai
Chennai 600 001

2. The Sales Tax Appellate Tribunal
(Main Bench), New City Civil Court
Buildings, Chennai 600 104.

3. The Commercial Tax Officer
Alwarpet Assessment Circle
46, Greenways Road
Chennai - 600 028.
sasi